



PATENT
SY01106 KQ1 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: _____ X

MARTHA A. WILD *ET AL*:

Examiner: Z. LUCAS

For: _____

Group Art Unit: 1648

RECOMBINANT INFECTIOUS
LARYNGOTRACHEITIS VIRUS
AND USES THEREOF

Serial No.: 09/993,777

Filed: November 6, 2001

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

**PATENT DEPARTMENT
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DECLARATION UNDER 37 C.F.R. § 1.132


I, Mark D. Cochran, hereby declare as follows:

1. I am a co-inventor of the above-referenced patent application. I have been informed that the claims in the above-referenced patent application have been amended to recite an isolated nucleic acid molecule encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 7.
2. Furthermore, I have been informed that Schering-Plough Corporation received an Office Action having a mailing date of July 15, 2003 for the above-identified application in which the Examiner has rejected Claims 39-41, 44-46 and 48 under 35 U.S.C. § 102 (e) as being anticipated by United States Patent No. 5,869,312 ("the '312 patent")

More specifically I have been informed that the Examiner asserts that the '312 patent describes a plasmid comprising the coding region of ILTV gI, a method for making it, a recombinant virus, a method of making the recombinant virus, a method of using the recombinant virus to infect a host cell, and a host cell comprising the recombinant DNA.

3. I am a co-inventor of both the '312 patent and the above-identified patent application. The disclosure for the '312 patent as it relates to ILVT gl was based on the prior invention made by Martha A. Wild and myself while we worked together at Syntro Corporation. This prior invention includes the subject matter of the pending claims of the above-identified patent application. Therefore, the disclosure of the ILVT gl and its use as described in the '312 patent were made subsequent to the present invention.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statement were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under 18 U.S.C. § 1001 and that such willful false statement may jeopardize the validity of the application and any patent issued thereon.



Mark D. Cochran
January 14, 2004

Date